identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

[redacted]

B5

DATE: MAY 11 2012

OFFICE: NEBRASKA SERVICE CENTER

[redacted]

IN RE: Petitioner:
Beneficiary: [redacted]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner seeks classification under section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a physician specializing in internal medicine and rheumatology. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a statement and several witness letters.

Before the filing of the appeal, attorney [redacted] represented the petitioner. [redacted] prepared a response to a request for evidence (RFE), including a cover letter on [redacted] letterhead. [redacted] mailed the RFE response from his Michigan address, rather than from the petitioner's Ohio address. Subsequently, however, [redacted] did not prepare or sign the Form I-290B Notice of Appeal; the petitioner's personal statement on appeal includes no mention of legal representation; and the petitioner mailed the appeal from her own Ohio address. Form I-290B advises that attorneys "must attach a Form G-28, Notice of Entry of Appearance as Attorney or Representative" to the appeal, as required by the U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 292.4(a). The appeal does not include this form. Therefore, the record contains no indication that [redacted] is still the petitioner's attorney of record, and several indications that he is not. The AAO will therefore consider the petitioner to be self-represented, and the term "prior counsel" shall refer to [redacted]

Section 203(b) of the Act states, in pertinent part:

> (2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. –
>
> > (A) In General. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.
> >
> > (B) Waiver of Job Offer –

> (i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The director did not dispute that the petitioner qualifies as a member of the professions holding an advanced degree. The sole issue in contention is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . ." S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to regulations implementing the Immigration Act of 1990, published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

> The Service [now USCIS] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

Matter of New York State Dept. of Transportation (*NYSDOT*), 22 I&N Dec. 215 (Act. Assoc. Comm'r 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, the petitioner must show that the alien seeks employment in an area of substantial intrinsic merit. Next, the petitioner must show that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available United States worker having the same minimum qualifications.

While the national interest waiver hinges on prospective national benefit, the petitioner must establish that the alien's past record justifies projections of future benefit to the national interest. The petitioner's subjective assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The intention behind the term "prospective" is to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative.

The AAO also notes that the regulation at 8 C.F.R. § 204.5(k)(2) defines "exceptional ability" as "a degree of expertise significantly above that ordinarily encountered" in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification

requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

The petitioner filed the Form I-140 petition on October 13, 2010. In an accompanying introductory statement, prior counsel stated:

> [The petitioner] seeks employment in the field of medical research, with particular emphasis in Internal Medicine and Rheumatology. . . .
>
> Her advanced research indeed justifies her projected future benefit to the U.S. national interest. [The petitioner's] prior achievements have benefited her field to a greater degree than research done by others working in the field. Her accomplishments have set her apart from other[s] in the field to the extent that she is a foremost expert.
>
> . . . A U.S. worker with the same minimum qualifications would indeed not have [the petitioner's] talents and expertise, and therefore could not serve the national interest to a similar degree. . . .
>
> [The petitioner] has made many pioneering research accomplishments in the field of internal medicine and rheumatology.

The intrinsic merit and national scope of medical research are not in dispute in this proceeding. The issue, instead, is the extent of the petitioner's impact and influence on her field. Prior counsel called the petitioner "a pioneer in the field, using her expertise in Internal Medicine and Rheumatology to revolutionize medical research and practice with respect to patients suffering from musculoskeletal conditions," and stated that the petitioner's "extraordinary accomplishments in medical research have resulted in wide recognition" and "[e]xtensive acclaim from leading experts in the field." The unsupported assertions of counsel do not constitute evidence. *See Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Therefore, it is necessary to determine how well the record supports prior counsel's claims.

Five witness letters accompanied the initial filing of the petition. [redacted] for Prince William County (Virginia) Community Services Board, stated: "I have known [the petitioner] since her high school. I was her mentor when she considered [traveling to the] United States for further medical training." [redacted] praised the petitioner's academic achievements and personal character, and stated that the petitioner's "breadth of research, clinical skills, commitment to patients, and focus on teaching others shows that she truly is an indispensible and extraordinary person." [redacted] whose own training is in psychiatry, claimed no training or expertise in either internal medicine or rheumatology.

The remaining letters are all from faculty members at institutions where the petitioner has studied and trained. The petitioner submitted a letter from [redacted] at the [redacted] The letter is undated, but [redacted] assertion that the petitioner "is expected to graduate in September 2008" shows that the letter must predate the petitioner's graduation. [redacted] asserted that the petitioner "stood out academically" and "performed very well during her pre-clinical years," and "continues to shine in extracurricular activities." [redacted] concluded by stating: "I am confident that she will make a wonderful doctor." [redacted] letter is an enthusiastic but general letter of recommendation, dating from a time before the petitioner was a fully qualified physician.

[redacted] at the University of Cincinnati (UC), Ohio, stated that the petitioner "has distinguished herself since her arrival here." [redacted] focused on the petitioner's clinical skills, stating that the petitioner "is certified to perform several procedures that not all first-year residents are capable of. These include paracentisis, thoracentesis, arterial blood gases, nasogastric intubation, and reading chest x-rays." [redacted] also praised the petitioner's teaching abilities. Only one sentence of the letter concerned the petitioner's research work, acknowledging the petitioner's collaboration on "a study differentiating between unforeseen fatal esophageal hemorrhage and end-stage renal disease."

[redacted] stated:

> [A]s an intern [the petitioner] did an inpatient medicine ward rotation with me as attending at the VAMC where I had the pleasure to work with her on [a] daily basis. [The petitioner] demonstrated her medical knowledge in the care of patients and practiced with compassion and proficiency. . . . With her clinical expertise, ability to learn, and strong research interests, there is no doubt in my mind that she will continue to succeed.

[redacted] stated that the petitioner "has significant accomplishments in medical research," but does not elaborate on the nature or impact of those accomplishments. [redacted] praised the petitioner in the context not of an established researcher, but that of a trainee, stating "she is at the top of her field for a medical resident."

[redacted] Atlanta, Georgia, stated: "I first met [the petitioner] when she did a rotation in my department at Emory University in 2008, where I am the coordinator for students teaching for [redacted] and [redacted] acknowledged and praised the petitioner's research work without providing substantive information about that research. The petitioner does not claim that her current work involves pediatric hematology, oncology, or bone marrow transplantation, which are [redacted] areas of expertise.

The letters, overall, show that the petitioner has made a positive impression on her mentors, but do not demonstrate that she has had a particularly significant impact outside of the institutions where she has studied, trained and worked.

Prior counsel repeatedly stressed that one sign of the petitioner's acclaim and ability was her authorship of peer-reviewed journal papers. Prior counsel did not claim that the petitioner's articles stand out from articles by others. Rather, prior counsel asserted that the very existence of the articles demonstrated "wide recognition" of the petitioner's "extraordinary accomplishments in medical research." Prior counsel cited no evidence to show that publication is a noteworthy achievement, rather than a routine and expected function of scientific researchers.

In a statement accompanying the initial filing, the petitioner stated that her published work "has . . . been cited by many national and international prestigious journals and researchers." The petitioner submitted documentation showing an aggregate total of nine citations for three of her articles (cited two, three and four times, respectively). The petitioner submitted no evidence to show that this citation rate is out of the ordinary in her field.

The petitioner's initial submission also included background information about a shortage of rheumatologists. The USCIS regulations at 8 C.F.R. § 204.12 discuss these requirements in further detail. In this instance, however, the petitioner has not followed any of those procedures. The petitioner has simply asserted that there is a shortage and that it is in the national interest to grant a waiver to her, as a highly qualified rheumatologist. Congress established the procedures for shortage-based physician waivers at section 203(b)(2)(B)(ii) of the Act, and USCIS has neither the authority nor the discretion to disregard the statutory requirements. By law, it cannot suffice for the petitioner to document a shortage of physicians in her specialty and leave it at that.

The director issued a request for evidence on March 28, 2011, instructing the petitioner to submit documentary evidence to establish the significance and impact of her research work. In response, prior counsel asserted that the petitioner "is a leading researcher in the field of Rheumatology," and that her "innovative research has enormous implications for the treatment of patients with rheumatis [*sic*] conditions both in the United States and in the international medical community." Prior counsel claimed that the petitioner's "pioneering research work has had a substantial degree of influence throughout the world" and that her "pioneering achievements . . . have led to his [*sic*] recognition by many experts in the field of Rheumatology." Prior counsel contended that the citation of the petitioner's published work "is a clear mark that [the petitioner] is one of the top researchers in the field of Rheumatology in the United States today."

Prior counsel claimed three reasons why holding the petitioner to the job offer/labor certification requirement would be against the national interest. First, the petitioner's "skills are urgently needed now in the United States." Prior counsel claimed that "the regular immigration process which requires a labor certification is taking nearly 5 years to complete. Should Americans be forced to wait for 5 years before [the petitioner's] talents are put to use in America?" At the time prior counsel wrote those words, the petitioner was already working in the United States. Prior counsel

did not explain why the labor certification process would inevitably result in the petitioner's inability to work in the United States until the process was complete.

Second, prior counsel claimed that the petitioner "will likely receive grants and will act as an independent researcher or consultant to U.S. research institutions and will not work for any one traditional employer." This statement amounts to nothing more than conjecture, and also falsely presumes that inability to obtain labor certification equates to eligibility for the national interest waiver.

Prior counsel's third assertion amounts to little more than unsupported hyperbole:

> **[The petitioner] possesses skills and talents that are unique and not able to be articulated on a labor certification application.**
> It is quite difficult to be able to set forth in writing all of [the petitioner's] unique skills and talents, as there are so many. She has blazed a trail in her field and has no equivalent. Her research accomplishments and achievements in this field have made her name synonymous with advancements in this area. She is currently involved with state-of-the-art research projects aimed at improving the state of knowledge in the field of Rheumatology.

(Emphasis in original.) The only demonstrably factual sentence in the above passage is the last one, which simply identifies the petitioner as a researcher in rheumatology. Prior counsel's other claims do not take on evidentiary weight merely on the basis of their grandiose scale. Rather, they serve only to raise questions of overall credibility. Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Id.* at 582, 591-92.

The petitioner provided a new statement intended "to throw light upon [her] accomplishments that make [her] stand out as compared to my peers in the field of medicine." The petitioner described her research project using photodynamic therapy as a treatment for cutaneous leishmaniasis, and asserted: "**I am one of the very few clinical scientists who are familiar with this technique and can efficiently use it in clinical settings**" (emphasis in original). The petitioner does not claim to have invented the technique or to be the first to have used it on cutaneous leishmaniasis.

Simple exposure to advanced technology constitutes, essentially, occupational training which can be articulated on an application for a labor certification. Special or unusual knowledge or training, while perhaps attractive to the prospective U.S. employer, does not inherently meet the national interest threshold. The issue of whether similarly-trained workers are available in the U.S. is an issue under the jurisdiction of the Department of Labor. *NYSDOT*, 22 I&N Dec. at 221.

The petitioner also described her research and clinical work with systemic lupus erythematous. This work is certainly not without value, but intrinsic merit does not suffice, by itself, to establish eligibility for the national interest waiver. The petitioner asserted that her work is crucial because "there is a shortage of rheumatologists," an assertion that, if true, would work in the petitioner's favor during the labor certification process. Given that the labor certification process was designed to address the issue of worker shortages, a shortage of qualified workers is an argument for obtaining rather than waiving a labor certification. *See id.* at 215, 218. As already explained, there are specific statutory and regulatory provisions by which a physician can obtain a shortage-based waiver, and the petitioner has made no evident attempt to meet any of those requirements.

The petitioner submitted updated citation information, indicating that her total number of citations had increased by two, from nine to eleven. The petitioner did not show that this minor increase was of great consequence to the overall impact of her work. The AAO notes that two of the petitioner's three cited articles date from her studies at Aga Khan University, and neither of those articles have any clear connection to internal medicine or rheumatology. Rather, the two articles in question both reported survey results – one regarding "perceptions about the cause of schizophrenia," and the other concerning "self-medication amongst university students in Karachi." Neither the petitioner nor prior counsel explained how either of these articles can have any rational connection to the petitioner's claimed status as virtually a household name in the field of rheumatology.

The petitioner's remaining article, regarding topical photodynamic therapy in treatment of cutaneous leishmaniasis, is the only article that showed new citations between the filing date and the petitioner's response to the request for evidence. This result does not fit well with prior counsel's assertion that the petitioner is an increasingly acclaimed figure in her specialty.

The petitioner submitted three additional witness letters, all from UC faculty members who directly participated in the petitioner's training. [redacted], associate professor of pediatric rheumatology, stated that the petitioner "stands out in a very exceptional manner among all the other . . . medical residents [she has] worked with." [redacted] claims that the petitioner's "prior publications have been extensively cited by other renowned scholars and researchers from all over the world," a claim that the record does not strongly corroborate.

[redacted] who has "worked with [the petitioner] directly in the outpatient clinic at the Hoxworth Center of University Hospital in Cincinnati," called the petitioner a "very talented and personable physician who is a valuable asset to our healthcare system" as well as "a budding researcher," a term that ill fits prior counsel's exaggerated claims.

[redacted] described the petitioner's one-month rotation in that program and called her "[a] superb clinician balanced with a growing experience in the much-needed area of research." [redacted] predicted that the petitioner "will [have] a distinguished medical career."

The director denied the petition on June 13, 2011. In the decision, the director acknowledged the intrinsic merit of the petitioner's field and the national scope of medical research, but found that the petitioner failed to demonstrate significant impact beyond the institutions where she has worked and studied. The director noted the minimal citation of the petitioner's published work.

On appeal, the petitioner asserts:

> Research involving novel ideas and innovative techniques in specialized fields have fewer citations immediately, compared to the epidemiological clinical studies. Part of the reason for fewer citations is that only a select group of specialists initially know about the research being done, and only [a] few top research facilities in the world like Harvard University and Cincinnati Children's hospital . . . conduct such highly specialized research.

The petitioner did not submit any documented statistics to support her claim that her work receives deceptively few citations, while at the same time being disproportionately influential. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

The petitioner notes: "I have been accepted at Baylor College of Medicine (BCM) as a Fellow in Rheumatology. . . . My acceptance at an institute of such high caliber while competing against many US nationals demonstrate[s] my prominence in my field." As the petitioner acknowledges on appeal, fellowship is a training position rather than a high-ranking faculty appointment. The reputation of the medical school neither conveys prominence on the petitioner nor reflects any existing prominence she already had. The petitioner fails to demonstrate that her ongoing training is grounds for a national interest waiver.

The petitioner also states:

> [C]urrently I am working as an internal medicine resident at [the] University of Cincinnati and part of my training is to work as a primary care physician at the Hoxworth center. Hoxworth clinic of University Hospital serves the indigent population of Cincinnati, Ohio. The number of patient[s] that I care for exceeds 180. These are the patients who do not find care at any other place. . . . The United States is in a devastating shortage of primary care physicians.

The implication is that the petitioner serves the national interest by providing care to the patients at the Hoxworth Clinic. The petitioner, however, has also indicated that she is about to relocate from Ohio to Texas to study at BCM, which will end her work at the Hoxworth Clinic. The national interest waiver is prospective in nature, and therefore the petitioner's short-term work at the Hoxworth Clinic does not create a permanent entitlement to the waiver.

Furthermore, the appeal marks the petitioner's first mention of the Hoxworth Clinic. An applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the application or petition. 8 C.F.R. § 103.2(b)(1). USCIS cannot properly approve the petition at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). For the same reason, the petitioner's newly-announced plans to train at BCM cannot show that she already qualified for the waiver before she was eligible to pursue a fellowship there.

The petitioner pursues two competing lines of logic on appeal, asserting on the one hand that she would alleviate a serious shortage of practicing physicians, but contending on the other hand that the labor certification process would likely compel her to practice medicine full-time rather than permit her to conduct research.

Five new letters accompany the appeal. As with previous letters, all of the letters on appeal are from individuals involved with the petitioner's ongoing medical training. Two letters are from prior witnesses. [redacted] states that "work done at Cincinnati children's hospital is in national interest with most impact [*sic*]." The intrinsic merit of such work is not in question, but it does not follow that anyone privileged to engage in that research must necessarily qualify for the national interest waiver. [redacted] praises the petitioner's "world class research" and asserts without elaboration that "a change in visa status will facilitate [the petitioner] in a more efficient and conducive manner."

[redacted] emphasizes the "pressing shortage of primary care physicians in the US" and asserted that "we should do everything we can to retain" such physicians. [redacted] does not acknowledge the existence of specialized waiver procedures for just such physicians, much less explain why the petitioner does not follow those procedures and thereby circumvent all of the *NYSDOT* requirements.

[redacted] supervised the petitioner's work "on projects involving photodynamic therapy (PDT) . . . in the summer of 2005 and 2006." [redacted] is a professor of dermatology, which is not the specialty through which the petitioner claims she will serve the national interest. Like many other witnesses, [redacted] praises the petitioner's skill as a researcher but offers no information about how the petitioner's past research work has influenced her field.

The remaining two witnesses are both on the BCM faculty. [redacted] or at BCM, states that the petitioner "stood out among some very strong candidates" and "will surely be . . . outstanding" upon completion of the training program. [redacted] claims that the petitioner's "work has already created great impact on the research involving Lupus and will be even more cited in the years to come." The record does not indicate that the petitioner had published any cited research on lupus at the time of this statement.

[redacted] states that the petitioner's "work is quite excellent and portends in her a very bright research future." [redacted] asserts that the petitioner "intends to conduct

transformative research involving some of the most intransigent, debilitating and complex of all medical afflictions – those involving autoimmunity, in which the immune system attacks one or more organs for no apparent reason." [redacted] would like to engage the petitioner in a two-year research program funded by the National Institutes of Health (NIH), but "a policy of the NIH is not to allow funding for visa holders, rendering [the petitioner] ineligible for research support." [redacted] does not persuasively explain why the petitioner should receive permanent immigration benefits in order to participate in a temporary program. Furthermore, the national interest waiver does not expedite the petition or adjustment process. Also, as previously noted, events after the petition's filing date cannot retroactively cause the petitioner to be eligible as of the petition's filing date. The petitioner's anticipated future work at [redacted] cannot show that she already qualified for the waiver before [redacted] accepted her into its fellowship program.

The Board of Immigration Appeals (BIA) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The BIA also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The opinions of experts in the field are not without weight and have received consideration above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may, as above, evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, 502 n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

In this instance, many of the witness letters offer only very vague claims regarding the petitioner's claimed eligibility for the waiver. Some letters rely on conjecture, such as assertions regarding what the petitioner may accomplish at [redacted] well after the filing date. Others present claims of fact that the record either fails to support or contradicts outright. The assertion that the petitioner is widely known throughout the field does not explain why all of the witnesses have worked closely with the petitioner at a handful of institutions.

The objective evidence of record portrays the petitioner as a promising trainee who has chosen an important area of specialization, but does not corroborate key claims about the extent of the petitioner's prior impact and influence on her field. The petitioner has repeatedly relied on assertions of dire shortage in her field, but there are specific procedures that a physician must follow

in order to receive a shortage-based national interest waiver. These procedures are grounded in statute. The national interest waiver waives the standard job offer/labor certification requirement; it does not waive the statutory procedures set forth at section 203(b)(2)(B)(ii) of the Act or the regulatory requirements at 8 C.F.R. § 204.12.

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.